

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 332778697 US in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, on March 10, 2005


Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

JONES et al.

Serial No.: 09/590,592

Filing Date: June 8, 2000

For: VALENCY PLATFORM MOLECULES
COMPRISING AMINOXY GROUPS

Examiner: D. Lukton

Group Art Unit: 1653

PETITION TO CORRECT INVENTORSHIP
PURSUANT TO 37 C.F.R. § 1.48(a)

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The presently named applicants, David S. Jones, Huong-Thu Ton-Nu, Fang Xie, Anping Toa, Tong Xu, and Jeffrey Robert Hammaker, hereby petition the Assistant Commissioner to delete the name of Fang Xie as a joint inventor to the above-referenced application.

☒ At least one originally named inventor remains.

☒ In support of this Petition, a Petition under 37 C.F.R. 1.183 is filed concurrently herewith in lieu of a signed declaration by Fang Xie as required under 37 C.F.R. § 1.48(a)(2).

03/16/2005 EABUBAK1 00000031 031952 09590592

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☒ In support of this Petition, declarations of David S. Jones, Huong-Thu Ton-Nu, Anping Toa, Tong Xu, and Jeffrey Robert Hammaker under 37 C.F.R. § 1.63 are enclosed.

☒ The written consent of any assignee is enclosed.

☒ The fee set forth in 37 C.F.R. § 1.17(h) of \$130.00

☐ is enclosed

☒ is authorized to be charged to **Deposit Account 03-1952** referencing attorney docket no. **252312007300**.

Applicants request that the inventorship in the above-identified application be amended by deleting Fang Xie, who was inadvertently included in the above-referenced application as a co-inventor, so that the inventorship entity of David S. Jones, Huong-Thu Ton-Nu, Anping Toa, Tong Xu, and Jeffrey Robert Hammaker will be listed as the true and correct inventorship entity in the above-identified application.

This request is supported by a Petition under 37 C.F.R. 1.183, filed concurrently herewith, requesting waiver of a signed declaration by Fang Xie as required under 37 C.F.R. § 1.48(a)(2). As explained in the Petition under 37 C.F.R. 1.183, Fang Xie cannot be reached by Applicants' representatives and is therefore unavailable to supply the statement required by 37 C.F.R. § 1.48(a)(2).

This request is also supported by executed declarations from David S. Jones, Huong-Thu Ton-Nu, Anping Toa, Tong Xu, and Jeffrey Robert Hammaker naming all of the correct inventors; and the written consent of the assignee. Authorization to charge the petition fee to the deposit account is provided above. Accordingly, the requirements of 37 C.F.R. § 1.48(a) for correction of inventorship have been met.

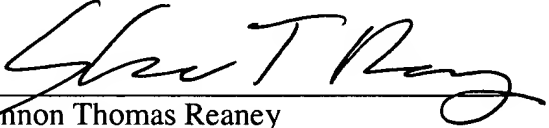
In the light of the foregoing and based on the attached declarations and consent of assignee, correction of the inventorship in the present application is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees that may be required by this petition, or to credit any overpayment to **Deposit Account No. 03-1952** referencing docket no. 252312007300. Please do not charge the Issue Fee to the deposit account.

Respectfully submitted,

Dated: March 10 , 2005

By:


Shannon Thomas Reaney
Registration No. 52,285

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5744
Facsimile: (650) 494-0792

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Group Art Unit: 1653

**PETITION FOR SUSPENSION OF RULES
PURSUANT TO 37 C.F.R. § 1.183**

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Petition for Suspension of Rules pursuant to 37 C.F.R. §1.183 is submitted concurrently with a Petition to Correct Inventorship by the removal of an inventor pursuant to 37 C.F.R. § 1.48(a).

In the Petition under 37 C.F.R. § 1.48(a), Applicants petition the removal of Fang Xie as a joint inventor on the above-referenced patent application. As explained in further detail below, Dr. Fang Xie became unavailable to sign a statement of lack of deceptive intent pursuant to 37 C.F.R. § 1.48(a)(2). Applicants hereby petition under 37 C.F.R. § 1.183 that the requirement for a statement from Dr. Xie under 37 C.F.R. § 1.48(a)(2) be waived.

An error in the originally listed inventorship for U.S. Application Serial No. 09/590,592 was discovered by Applicants' representatives during an investigation to confirm inventorship of the currently pending claims. During the investigation, Applicants' representatives discovered that Dr. Xie was incorrectly listed as an inventor at the time U.S. Application Serial No. 09/590,592 was filed.

When Applicants' representatives determined that Dr. Xie was incorrectly listed as an inventor on U.S. Application Serial No. 09/590,592 at the time of filing, Dr. Andrew Wiseman, Senior Director of Business Development for La Jolla Pharmaceutical Company, contacted Dr. Xie by phone and explained that the claims in U.S. Application Serial No. 09/590,592 did not involve his work and that Applicants' representatives would contact him regarding any paperwork necessary to correct inventorship.

On May 26, 2004, Applicants' representatives sent Dr. Xie: 1) a letter summarizing that Dr. Wiseman had spoken with Dr. Xie regarding the inventorship listing and that Applicants' representatives were providing Dr. Xie with the paperwork required in support of a petition to correct inventorship by removal of his name from the listed inventive entity; 2) a statement pursuant to 37 C.F.R. § 1.48(a)(2) for Dr. Xie's signature stating Dr. Xie's address, that Dr. Xie is not an inventor of the invention claimed in the subject application and that Dr. Xie's name was included in the originally listed inventorship without deceptive intent on his part; and 3) paperwork for correcting inventorship in the corresponding European application for Dr. Xie's signature. Applicants' representatives mailed the foregoing documents to Dr. Xie via DHL on May 26, 2004.

Shortly thereafter, Dr. Xie called Applicants' representatives and left the phone number he could be reached at in China. On June 2, 2004, Applicants' representatives contacted Dr. Xie by telephone and discussed the documents that had been sent to him on May 26, 2004, including the statement of lack of deceptive intent for Dr. Xie's signature as required under 37 C.F.R. § 1.48(a)(2). During the June 2, 2004 conversation, Dr. Xie indicated to Applicants'

representatives that he would like to review a copy of U.S. Application Serial No. 09/590,592 and the pending claims thereof before signing the statement under 37 C.F.R. § 1.48(a)(2). Dr. Xie supplied Applicants' representatives with his email address and facsimile number to which copies of U.S. Application Serial No. 09/590,592 and the pending claims thereof could be sent.

On June 3, 2004, Applicants' representatives sent Dr. Xie an email in response to his request to receive a copy of U.S. Application Serial No. 09/590,592 and the pending claims thereof. In the email, Applicants' representatives noted to Dr. Xie that U.S. Application Serial No. 09/590,592 had not published, but that the corresponding PCT Application, WO 00/75105, had published. Applicants' representatives provided an electronic copy of WO 00/75105 to Dr. Xie in the June 3, 2004 email, noting that except for the claims, WO 00/75105 was identical to unpublished U.S. Application Serial No. 09/590,592.

In addition, Applicants' representatives sent Dr. Xie a facsimile copy of the pending claims on June 3, 2004. Applicants' representatives noted in the facsimile cover letter that the requested claim set was attached, that no further copies of the facsimile should be made, that Dr. Xie should treat the contents of the facsimile as strictly confidential, and that after Dr. Xie's review of the claims, he should destroy his facsimile copy thereof. Applicants' representatives requested that Dr. Xie assist further by sending Applicants' representatives a return facsimile after his review of the claims stating that he has destroyed his facsimile copy.

Applicant's representatives did not receive a return email or facsimile from Dr. Xie confirming receipt of either WO 00/75105 or the U.S. Application Serial No. 09/590,592 pending claims.

On June 8, 2004, Applicants' representatives sent a follow-up email to Dr. Xie stating that the email was simply an inquiry regarding whether Dr. Xie received the facsimiles or email communications that had been sent to the email and facsimile addresses he provided to Applicants' representatives the previous week. Applicants' representatives did not receive any response from Dr. Xie.

On June 8, 2004, Applicants' representatives also attempted to call Dr. Xie in China at the same phone number at which Dr. Xie had previously been reached. However, Applicants' representative's call to Dr. Xie's phone number at which he had previously been contacted went unanswered.

Further telephone attempts were made to Dr. Xie's phone number on June 9, 2004 and on June 10, 2004 by Applicants' representatives. Each time, the calls to Dr. Xie went unanswered and there was no answering system on which Applicants' representatives could leave a message for Dr. Xie.

Despite the numerous communication methods (email, phone, facsimile) attempted, Applicants' representatives have been unsuccessful in their attempts to contact Dr. Fang Xie after their initial conversation with him on June 2, 2004. To date, Applicants' representatives have not received any return paperwork, email communications, facsimiles or telephone calls from Dr. Xie, leaving Applicants' representatives to conclude that Dr. Xie is an individual who cannot be reached.

Correction of the listed inventorship for the subject application is still required under 37 C.F.R. § 1.48(a), despite Dr. Xie's unavailability to execute a statement of lack of deceptive intent in support of a petition to correct inventorship under 37 C.F.R. § 1.48(a). Accordingly, Applicants hereby submit this Petition under 37 C.F.R. § 1.183 and request that Applicants' requirement to submit a signed statement of lack of deceptive intent under 37 C.F.R. § 1.48(a)(2) be waived.

Applicants note that the 37 C.F.R. § 1.48(a) petition to correct inventorship submitted together with this Petition under 37 C.F.R. § 1.183 includes all other required documentation in support thereof, including: 1) written consent of the assignee; 2) a newly executed declaration signed by all correctly named inventors; 3) at least one originally named inventor remains; 4) a request; and 5) the processing fee set forth in 37 C.F.R. 1.17(h).

Applicants also note that MPEP § 201.03 states “In certain instances where the statement of the lack of deceptive intent of the inventor to be added or deleted cannot be obtained, a petition under 37 CFR 1.183 requesting waiver of that requirement may be possible.” Applicants assert that this Petition is therefore appropriate for the above-explained situation, and respectfully request its approval.

In support of this petition:

☒ The fee set forth in 37 C.F.R. § 1.17(h) of \$ 400.00

☐ is enclosed

☒ is authorized to be charged to Deposit Account 03-1952 referencing attorney
docket no. 252312007300.

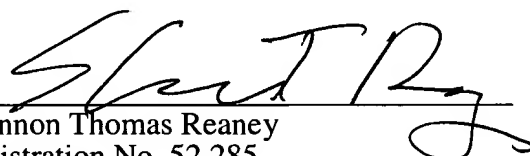
In the light of the foregoing, granting of this petition is respectfully request to allow correction of the inventorship in the present application.

The Commissioner is hereby authorized to charge any additional fees that may be required by this petition, or to credit any overpayment to **Deposit Account No. 03-1952** referencing docket no. 252312007300. Please do not charge the Issue Fee to the deposit account.

Respectfully submitted,

Dated: March 10, 2005

By:


Shannon Thomas Reaney
Registration No. 52,285

Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5744
Facsimile: (650) 494-0792

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.: 09/590,592

Filing Date: June 8, 2000

For: VALENCY PLATFORM MOLECULES
COMPRISING AMINOXY GROUPS

Examiner: D. Lukton

Group Art Unit: 1653

**CONSENT OF ASSIGNEE FOR
PETITION TO CORRECT INVENTORSHIP
PURSUANT TO 37 C.F.R. § 1.48(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

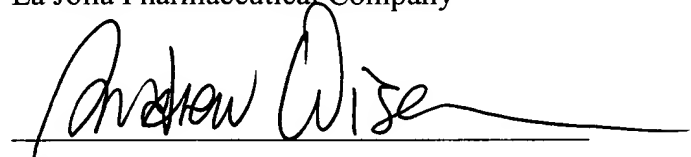
La Jolla Pharmaceutical Company, the assignee of the entire right, title and interest in the above-referenced patent application, hereby consents to the deletion of Fang Xie as an inventor to said application, correcting the inventorship of the application to David S. Jones, Huong-Thu Ton-Nu, Anping Tao, Tong Xu, and Jeffrey Robert Hammaker.

Correction of the inventorship in the present application is respectfully requested. The undersigned (whose title is supplied below) is empowered to provide this consent on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: Oct 19, 2004

La Jolla Pharmaceutical Company

A handwritten signature in black ink, appearing to read "Andrew Wiseman", written over a horizontal line.

Name: Andrew Wiseman
Title: Senior Director of Business Development
and Investor Relations
Address: 6455 Nancy Ridge Drive, #300
San Diego, CA 92121
Telephone: (858) 646-6615



DECLARATION FOR UTILITY PATENT APPLICATION

AS BELOW-NAMED INVENTORS, WE HEREBY DECLARE THAT:

Our residences, post office addresses, and citizenship are as stated below next to our names.

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: VALENCY PLATFORM MOLECULES COMPRISING AMINOXY GROUPS, the specification of which is attached hereto unless the following box is checked:

- ☒ was filed on June 8, 2000 as United States Application Serial No. 09/590,592 and was amended on May 17, 2002; November 6, 2002; June 6, 2003 and September 16, 2004.

WE HEREBY STATE THAT WE HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

We acknowledge the duty to disclose information which is material to the patentability as defined in 37 C.F.R. § 1.56.

We hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Application No.	Country	Date of Filing	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

We hereby claim benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date
60/138,260	June 8, 1999

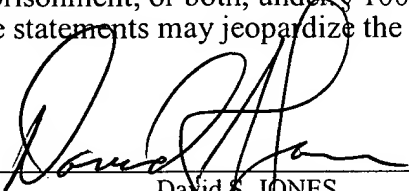
We hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, we acknowledge the duty to disclose information which is material to

patentability as defined in 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

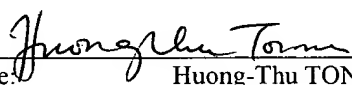
Application Serial No.	Filing Date	Status
		<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

20 Oct 04
Date


Name: David S. JONES
Residence: San Diego, CA 92127
Citizenship: United States of America
Post Office Address: 11265 Florindo Road, San Diego, CA 92127

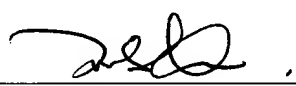
21 Oct 04
Date


Name: Huong-Thu TON-NU
Residence: San Diego, CA 92131
Citizenship: United States of America
Post Office Address: 11258 Pepperview Terrace, San Diego, CA 92131

Date

Name: Anping TAO
Residence: Poway, CA 92064
Citizenship: People's Republic of China
Post Office Address: 12256 Pepper Tree Lane, Poway, CA 92064

19 Oct 04
Date


Name: Tong XU
Residence: San Diego, CA 92131-2901
Citizenship: People's Republic of China
Post Office Address: 11405 Heartwood Cove, San Diego, CA 92131-2901

Date

Name: Jeffrey Robert HAMMAKER
Residence: San Diego, CA 92131
Citizenship: United States of America
Post Office Address: 11873 Ramsdell Court, San Diego, CA 92131



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Application Serial No.	Filing Date
60/138,260	June 8, 1999

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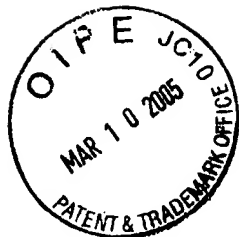
Date _____ Name: David S. JONES
 Residence: San Diego, CA 92127
 Citizenship: United States of America
 Post Office Address: 11265 Florindo Road, San Diego, CA 92127

Date _____ Name: Huong-Thu TON-NU
 Residence: San Diego, CA 92131
 Citizenship: United States of America
 Post Office Address: 11258 Pepperview Terrace, San Diego, CA 92131

10/9/04 _____
 Date _____ Name: Anping TAO
 Residence: Poway, CA 92064
 Citizenship: People's Republic of China
 Post Office Address: 12256 Pepper Tree Lane, Poway, CA 92064

Date _____ Name: Tong XU
 Residence: San Diego, CA 92131-2901
 Citizenship: People's Republic of China
 Post Office Address: 11405 Heartwood Cove, San Diego, CA 92131-2901

Date _____ Name: Jeffrey Robert HAMMAKER
 Residence: San Diego, CA 92131
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Application No.	Country	Date of Filing	Priority Claimed?
			<input type="checkbox"/> Yes <input type="checkbox"/> No

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		<input type="checkbox"/> Patented <input type="checkbox"/> Pending <input type="checkbox"/> Abandoned

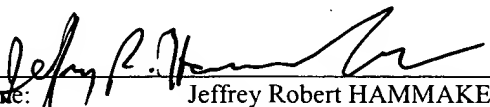
We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

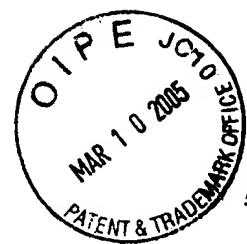
Date _____ Name: David S. JONES
Residence: San Diego, CA 92127
Citizenship: United States of America
Post Office Address: 11265 Florindo Road, San Diego, CA 92127

Date _____ Name: Huong-Thu TON-NU
Residence: San Diego, CA 92131
Citizenship: United States of America
Post Office Address: 11258 Pepperview Terrace, San Diego, CA 92131

Date _____ Name: Anping TAO
Residence: Poway, CA 92064
Citizenship: People's Republic of China
Post Office Address: 12256 Pepper Tree Lane, Poway, CA 92064

Date _____ Name: Tong XU
Residence: San Diego, CA 92131-2901
Citizenship: People's Republic of China
Post Office Address: 11405 Heartwood Cove, San Diego, CA 92131-2901

Oct. 11, 2004
Date _____ 
Name: Jeffrey Robert HAMMAKER
Residence: San Diego, CA 92131
Citizenship: United States of America
Post Office Address: 11873 Ramsdell Court, San Diego, CA 92131



Application Data Sheet

Application Information

Application number::	09/590,592
Filing Date::	06/08/00
Application Type::	Regular
Subject Matter::	Utility
Suggested Group Art Unit::	1653
CD-ROM or CD-R?::	None
Sequence submission?::	None
Computer Readable Form (CRF)?::	No
Title::	VALENCY PLATFORM MOLECULES COMPRISING AMINOXY GROUPS
Attorney Docket Number::	252312007300
Request for Early Publication?::	No
Request for Non-Publication?::	No
Small Entity?::	Yes
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	Inventor
Primary Citizenship Country::	US
Status::	Full Capacity
Given Name::	David
Middle Name::	S.
Family Name::	JONES
City of Residence::	San Diego
State or Province of Residence::	CA
Country of Residence::	US
Street of mailing address::	11266 Florindo Road
City of mailing address::	San Diego

State or Province of mailing address:: CA
Postal or Zip Code of mailing address:: 92127

Applicant Authority Type:: Inventor
Primary Citizenship Country:: US
Status:: Full Capacity
Given Name:: Huong-thu
Family Name:: TON-NU
City of Residence:: San Diego
State or Province of Residence:: CA
Country of Residence:: US
Street of mailing address:: 11258 Pepperview Terrace
City of mailing address:: San Diego
State or Province of mailing address:: CA
Postal or Zip Code of mailing address:: 92131

Applicant Authority Type:: Inventor
Primary Citizenship Country:: People's Republic of China
Status:: Full Capacity
Given Name:: Anping
Family Name:: TAO
City of Residence:: Poway
State or Province of Residence:: CA
Country of Residence:: US
Street of mailing address:: 12256 Pepper Tree Lane
City of mailing address:: Poway
State or Province of mailing address:: CA
Postal or Zip Code of mailing address:: 92064

Applicant Authority Type:: Inventor
Primary Citizenship Country:: People's Republic of China
Status:: Full Capacity

Given Name:: Tong
Family Name:: XU
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Applicant Authority Type:: Inventor
Primary Citizenship Country:: US
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Correspondence Information

Correspondence Customer Number:: 25226

Representative Information

Representative Customer Number:: 25226

Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	An application claiming the benefit under 35 USC 119(e)	60/138,260	06/08/99

Foreign Priority Information

Assignee Information

Assignee name:: La Jolla Pharmaceutical Company
6455 Nancy Ridge Drive, #300
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